In the Matter of Lucy Alonso, Department of Corrections
Sick Leave Injury Appeal
DOP Docket No. 2006-565
(Merit System Board, decided December 7, 2005)

Lucy Alonso, a Personnel Assistant 2 with the Northern State Prison, Department of Corrections, appeals the denial of sick leave injury (SLI) benefits.

The appellant filed an Employer's First Report of Accidental Injury or Occupational Disease (Accident Report) on May 6, 2005, indicating that she had sustained a "recurrent exposure to poison ivy," and indicated that the place of the exposure had been at her home address. Four days later, May 10, 2005, the appellant filed a second Accident Report, indicating that "someone in office reported that I had a contagious illness/disease [and was] told to stay home May 9 and 10, 2005 by [State-authorized] physicians." In a memorandum dated May 11, 2005, her supervisor wrote that the appellant had alleged that her rash, although "noticeably blistering and runny," was not contagious. In a Supervisor's Accident Investigation Report, her supervisor stated that the appellant first ascribed her rash to either poison ivy or a medication or salve that her doctor had prescribed. At this time, the supervisor noticed that the appellant's rash was "extremely blistered and runny on her neck, arms, and hands," and referred her to U.S. HealthWorks for an examination by Dr. Richard Amegadzie, a State-authorized physician, "to ensure other staff did not become infected." Dr. Amegadzie could not identify the rash as the appellant refused his medical treatment and would not divulge the nature of her rash; however, he did determine that the rash on her hands was different from the rash on her neck and arms. Therefore, Dr. Amegadzie authorized the appellant out of work until cleared to return by her personal dermatologist. Also on May 6, 2005, the appellant was examined by one of her personal dermatologists, Dr. Eric S. Siegel, who wrote that the appellant would be able to return to work on May 9, 2005, adding a handwritten annotation that stated, "Dermatitis is none (sic) contagious." However, another follow-up note, dated May 26, 2005 and signed by Dr. Allyson Stacy Brockman, indicated that the appellant would not have been able to return to work until May 11, 2005. On May 10, 2005, the appellant was reexamined by another State-authorized physician, Dr. Mylene Mangahas, who stated that the appellant's illness was not work related and that she was not infectious. However, Dr. Mangahas continued, "[s]ince her job requires touching paper with typing and computer work, she must use the recommended dressing [on her rash]." Finally, the appellant's supervisor stated that the appellant attempted to return to work on May 10, 2005 "without medical clearance and was sent home until she could be cleared to

return." It is noted that none of the appellant's medical documents in the record indicates that the appellant's skin condition was caused by exposure to poison ivy. The appointing authority denied the appellant's claim for SLI benefits on the basis that her illness was not work related, relying on *N.J.A.C.* 4A:6-1.6(c)1. The record shows that the appellant used 15 hours of personal sick leave on May 6, 9, and 10, 2005.

On appeal to the Merit System Board (Board), the appellant argues that she is entitled to 15 hours of SLI benefits for May 6, 9, and 10, 2005, because the appointing authority ordered her to miss work in order to be evaluated by a State-authorized physician, despite the fact that, on April 26, 2005, her personal physician, Dr. Brockman, had declared her able to work and that her skin condition was not contagious. In this regard, the appellant argues that the misdiagnosis by State physicians that her skin condition was infectious, requiring bandaging "caused me aggravation of my condition, pain, and unnecessary trips to my own physician." In contrast, the appellant alleges, "My own physician [Dr. Brockman] returned me to work *immediately* after treatment" (emphasis added).

In response, the appointing authority contends that the appellant's illness was clearly not work related, since she was not exposed to poison ivy at work. Further, it states that, "Due to the appearance of her condition, she was sent to a State doctor to be evaluated as a precautionary measure [and] not because her condition was work related." In this regard, it is noted that the appointing authority explained its reason for sending the appellant to a State physician for evaluation in an e-mail to her, dated June 2, 2005, which stated, "[T]he major concern was occupational health and whether your poison ivy was contagious and harmful to the health of your fellow employees."

CONCLUSION

According to uniform SLI regulations, in order to be compensable, an injury or illness resulting in disability must be work related and the burden of proof to establish entitlement to SLI benefits by a preponderance of the evidence rests with the appellant. *See N.J.A.C.* 4A:6-1.6(c) and *N.J.A.C.* 4A:6-1.7(h).

In this case, the appellant has clearly admitted that her skin condition, whether caused by exposure to poison ivy or something else, was not work related. Therefore, the denial of SLI benefits by the appointing authority was proper and consistent with uniform SLI criteria. However, the appellant raises another issue in her appeal, *i.e.*, did the appointing authority have the right to require her to see a State-authorized physician, who subsequently

ordered her to miss work? The Board finds that the answer to this question is yes. An appointing authority is within its rights to have an employee examined by its physicians. In this regard, *N.J.A.C.* 4A:6-1.4(g) states, in pertinent part:

> An appointing authority may require an employee to be examined by a physician designated and compensated by the appointing authority ….
> 1. Such an examination shall establish whether the employee is capable of performing his or her work duties and whether return to employment would jeopardize the health of the employee or that of other employees.

It is clearly reasonable that an appointing authority desires to safeguard its employees in the workplace, and shall require an employee who may pose a risk to herself or others to leave the workplace and seek appropriate treatment. In the instant case, the appellant was less than forthcoming or consistent concerning the diagnosis and prognosis of her skin condition. Therefore, the Board finds that it was both reasonable and proper for the appointing authority to require the appellant to remain out of work until medically cleared to return. Although the appellant alleges that her personal dermatologist certified her able to work "immediately after treatment," the record clearly shows that Dr. Brockman returned her to work on May 11, 2005, five days after her initial follow-up visit. Moreover, Dr. Amegadzie, the State-authorized physician, clearly stated that the appellant would be permitted to return to work when she was cleared by her personal dermatologist. Thus, the appointing authority was entitled to obtain appropriate medical verification before returning the petitioner to work.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.